



Venezuela

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Venezuela is a republic with an elected president and a unicameral congress. The Constitution, which entered into effect on December 30, 1999, also provides for a "Citizen Power" branch of government, which includes the Ombudsman, the Public Prosecutor, and the Controller General, and an "electoral power"--the National Electoral Council (CNE). On July 30, voters reelected President Hugo Chavez Frias of the Fifth Republic Movement (MVR). The MVR also won 92 seats in the 165-member legislature. According to international observers, the year's general elections were generally free and fair; however, there were localized technical problems and irregularities, and the process leading to the elections was a controversial and difficult one. The date for the elections originally was set for May 28, but as that date approached it became increasingly apparent that the CNE had failed to organize the elections adequately. Constant changes to the voter database--which both the opposition and nongovernmental organizations (NGO's) alleged were intended to offer electoral advantage to President Chavez's supporters--made it impossible to complete programming of the electronic voting machines or carry out other necessary steps. The Supreme Court ordered a delay and gave responsibility for setting the new date to the National Legislative Committee (a panel serving as the country's legislature pending election of the National Assembly). The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources.

The security apparatus includes civilian and military elements, both accountable to elected authorities. The Interior and Justice Ministry controls the Judicial Technical Police (PTJ), which conducts most criminal investigations, and the State Security Police (DISIP), which is primarily responsible for investigating cases of corruption, subversion, and arms trafficking. The Defense Ministry controls the General Directorate for Military Intelligence, which is responsible for collecting intelligence related to national security and sovereignty. The National Guard, an active branch of the military, has arrest powers and is largely responsible for guarding the exterior of prisons and key government installations, maintaining public order, monitoring frontiers, conducting counterdrug operations, and providing law enforcement in remote areas. It also supplies the top leadership for various state and municipal police forces, which fall under the authority of the respective state governors or municipal mayors. The Metropolitan Police is the main civilian police force in and around Caracas. There was continued controversy during the year over the use of the armed forces in traditionally nonmilitary roles in government and society, including the appointment of military officers to high-ranking government positions. Some 70,000 members of the military continued to participate in a public works program begun in 1999, including conducting a census of the unemployed; providing medical care to the needy; renovating schools, playgrounds, and medical care centers; and removing garbage. At year's end, 3 of the 14 members of the President's Cabinet, including the Minister of Defense, were either active or retired career military officers, as were the presidents of the major state-owned corporations Petroleos de Venezuela, CITGO, and Corporacion Venezolana de Guyana. There are also a number of military officers in high and mid-ranking government positions in agencies responsible for social development, public works, and finance. Both police and military personnel were responsible for human rights abuses during the year.

The country has abundant natural resources, and its per capita gross domestic product (GDP) is \$4,302. However, income is distributed unevenly with approximately 80 percent of the population living at or below the poverty line, which is \$1,986 per capita. Oil accounted for 27 percent of GDP, 53 percent of government revenues, and 84 percent of the country's exports during the year. Nonoil exports also are dominated by natural resources, with some basic refining. Iron, aluminum, steel, and petrochemical products together comprise nearly half of the country's nonoil exports. The vast majority of all natural resource extraction and production is done by entities owned and operated wholly or in part by the Government. During the year, the economy began to recover from its deepest recession in 10 years as oil prices increased from historic lows to the highest prices since the oil crises of the 1970's. Growth for the year is estimated at 3.2 percent; the economy contracted by 6.1 percent in 1999.

The Government's human rights record remained poor in some areas; although there were improvements in some areas, serious problems remain. During the year, the police and military committed extrajudicial killings of criminal suspects at an increased rate. Excessive use of deadly force by police and security forces was a serious problem; over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. Investigations continued into the forced disappearances of criminal suspects by the security forces. Torture and abuse of detainees continued, and the Government failed to punish police and security officers guilty of abuse. While overcrowding was reduced in some prisons, prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. Arbitrary arrest and detention increased. Lengthy pretrial detention, and corruption and severe inefficiency in the judicial and law enforcement systems also were problems. The Government struggled to implement the Organic Criminal Procedures Code (COPP), which required a major shift from a secretive inquisitorial system to an open adversarial system; however, there were successes including a reduction in the number of prisoners who had not been convicted of a crime. The authorities suspended a number of judges for incompetence or corruption. The December 1999 Constitution established civilian trials for soldiers accused of abuses and committed the Government to the rulings of international courts. Security forces committed illegal searches. Concern over freedom of the press increased, and some critics charged that the Government intimidated the media. Self-censorship was reportedly widespread. Concern over freedom of association increased, due in part to a Supreme Court ruling that could limit the legal rights of some associations. The Government described some refugees as "displaced persons in transit" and restricted their ability to request asylum. The new Constitution created a national Ombudsman, who repeatedly and frankly advocated for the respect of human rights. Violence and discrimination against women, abuse of children, discrimination against the disabled, and inadequate protection of the rights of indigenous people continue to be problems. Concern over labor rights increased, and on December 3, voters approved a referendum to "overhaul" union leadership. Child labor persisted, and there were reports of trafficking in children for forced labor. Killings due to vigilante justice increased significantly.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

There were no reports of targeted political killings; however, the security forces continued to commit extrajudicial killings, primarily of criminal suspects, at significantly increased levels. The Venezuelan Program of Action and Education in Human Rights (PROVEA), a highly respected human rights NGO, documented 170 extrajudicial killings from October 1999 through September, compared with 101 killings from October 1998 to September 1999. The killings involved summary executions of criminal suspects, indiscriminate or excessive use of force, and death resulting from mistreatment while in custody. According to PROVEA, state police forces other than the Metropolitan Police were responsible for 82 killings; the Metropolitan Police were responsible for 25 killings; the PTJ, 25 killings; the National Guard, 9 killings; the municipal police forces, 8 killings; the army, 6 killings; the DISIP, 4 killings; and other security forces, 11 killings. These figures reflect a range of killings in very different situations committed by organizations with varying levels of control and responsibilities. The majority of the killings were attributed to various state and municipal police forces that report to local officials and usually have little training or supervision. Excessive use of deadly force was a problem; according to the Government, over 2,000 suspected criminals were killed in shootouts with the police during the first 8 months of the year. There are reports that police fire on criminal suspects who disobey orders to halt. Many politicians contributed to a climate of official acceptance of the excessive use of force when, during the national election campaign, they employed slogans such as "bullets for the underworld" and "the only good criminal is a dead criminal."

The perpetrators of extrajudicial killings act with near impunity, as the Government rarely prosecutes such cases. The police often fail to investigate crimes allegedly committed by their colleagues and characterize incidents of extrajudicial killings as "confrontations," even when eyewitness testimony and evidence strongly indicate otherwise. In addition, the civilian judicial system still is struggling to implement the new Organic Criminal Procedures Code and, in the meantime, remains highly inefficient and sometimes corrupt (see Section 1.e.). In the small number of prosecutions in which the courts convict perpetrators of extrajudicial killings and other abuses, the sentences issued are frequently light, or the convictions are overturned on appeal. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; however, the provision does not apply to military trials for cases that predate the new Constitution (see Section 1.e.). Unlike common criminals, members of the security forces charged with or convicted of crimes rarely spend much time in prison.

Red de Apoyo, an NGO, reported that on January 6, the Yaracuy state police detained Jaime Hilarion Palima and Richard Lucambio on a city street in San Felipe. Hilarion's and Lucambio's bodies were found 5 days later

on a river bed and a highway, respectively. The case was under investigation at year's end.

On April 8, the Metropolitan Police fired indiscriminately at a group of individuals who had just seen them shoot and kill a suspected criminal, and also killed one of the witnesses, Guillerma Colmenares. The police also tortured another witness, Donis Ramirez (see Section 1.c.). The case was under investigation at year's end.

On June 30, the Metropolitan Police arrested Ronny Tovar, age 17, Francisco Mister, age 14, and Luis Hernandez, age 21, in their homes. Witnesses heard shots and saw the bodies of the three young men being taken from the scene in a police vehicle. The bodies later were recovered, and the case was under investigation at year's end.

Security forces committed some killings in prisons; however, the majority of the 338 inmate deaths during the year resulted from gang confrontations, riots, fires, and generally unsanitary and unsafe conditions in prison facilities (see Section 1.c.).

The authorities continued to investigate allegations of human rights violations by the military and security forces sent to Vargas state in December 1999. The forces were sent to restore order after an outbreak of looting following heavy rains, which triggered flooding and landslides that killed an estimated 20,000 persons. Witnesses claim that military and security forces beat, detained, and killed alleged criminal suspects and other individuals between December 19 and December 25, 1999 (see Sections 1.b., 1.c., 1.d., and 4). On May 22, Foreign Minister Jose Vicente Rangel stated that confirmed cases of these abuses were "numerous and important."

For example, on December 25, 1999, National Guard Corporal Lorenzo Badillo Cano shot and killed Luis Bastardo as he celebrated the Christmas holiday on a street in La Guaira. The Prosecutor General, with the cooperation of the PTJ and the National Guard, successfully prosecuted Badillo, who pled guilty to murder and, on September 6, was sentenced to 10 years in prison, less than the 15 to 25 years established by law. The authorities also are investigating four disappearance cases from the same time period in Vargas (see Section 1.b.).

There were no prosecutions for the June 1999 death of Jhon Linares, who was detained by the Metropolitan Police and later was found dead from three bullet wounds at the hospital, or Oswaldo Blanco, who died in February 1999 due to abuse by the National Guard.

At year's end, the trial of a police officer for the February 1999 death of Angel Castillo Munoz was ongoing. Castillo died when Sucre state police broke up a peaceful student demonstration; he was hit in the head by a rubber bullet and fell unconscious into an area saturated by tear gas. Police reportedly continued to fire, despite students' attempts to surrender, resulting in a delay of medical care to the injured students.

The PTJ made no progress in the investigation of the May 1998 killings of Carlos Alberto Colmenares Garcia, Richard David Palacios Garcia, and Avelino Rafael Vega, who died after the Sucre municipal police opened fire on their car. There has been no further investigation into the January 1998 killings of Harold Michael Zambrano Gonzalez and Arturo Jose Hernandez Ramirez by the Metropolitan Police.

There was no further information on the appeal by the prosecution of a court's 1999 decision to exonerate a PTJ member implicated in the 1995 execution-style killing of 21-year-old Hector Rojas, despite evidence of the officer's guilt.

On August 4, a court convicted two National Guardsmen and one prison guard and sentenced them to terms ranging from 15 to 30 years in prison for the 1996 deaths of 25 inmates in a fire started by prison guards at La Planta prison.

In March the victims' families and the Government reached an out-of-court settlement in the case of the 1992 killings of at least 63 prisoners at Catia prison.

In November 1999, before the Inter-American Court of Human Rights, the Government accepted its responsibility in 44 cases of extrajudicial killings by security forces during and after the civil unrest of February-March 1989, in which some 300 alleged extrajudicial killings were committed. The Government also agreed to compensate the families of the victims and to identify and punish those responsible; however, during the year there was considerable disagreement regarding compensation, and an agreement had not been reached at year's end. The Committee of Family Members of Victims of the Unrest had referred a total of 45 cases to the Inter-American Commission on Human Rights (IACHR) in 1995. In 1991 a police officer was found guilty of one killing, but the courts released the officer from prison 1 year later. In October 1997, the IACHR called on

the Government to investigate this case, provide compensation to the victim's family, and bring to justice those responsible for the death. By year's end, the Government had complied partially; it had investigated and made a payment, but it had not punished any of those responsible.

Mob lynching of supposed criminals increased significantly due to the public's perception of increased impunity resulting from the difficult implementation of the COPP. The victims were almost always known criminals who preyed on residents of poor neighborhoods. Between October 1999 and September, PROVEA recorded 22 lynchings and 107 attempted lynchings, compared to 2 lynchings and 24 attempted lynchings between October 1998 and September 1999. Vigilante groups known as "brigadas" continued to operate.

b. Disappearance

The December 1999 Constitution prohibits forced disappearance, obliges an individual to disobey an order to carry out a disappearance, and provides for the prosecution of the intellectual author of the crime. There were no reports of targeted political disappearances; however, there were reliable reports of persons who disappeared after being detained by the security forces at the end of 1999.

The authorities are investigating allegations that the military and security forces carried out forced disappearances of alleged criminal suspects and other individuals in Vargas state during a crackdown on looters in December 1999. On December 21, 1999, army paratroopers separately arrested Oscar Blanco Romero and Marco Monasterio without explanation, in their homes in Caraballeda, Vargas state. Following the filing of habeas corpus petitions, the army made a formal response in which they acknowledged detaining the men but stated that they were immediately turned over to the DISIP. The DISIP first stated that they had no agents in the area at the time, then reversed that position, but stated that they did not have Blanco and Monasterio in detention.

On December 21, 1999, army paratroopers beat and arrested Jose Rivas Fernandez on a city street in Caraballeda, Vargas state, according to reliable reports. The army command states that it did not detain Rivas. On December 23, 1999, DISIP agents seized Roberto Hernandez Paz in his uncle's home in La Guaira, Vargas state. The uncle subsequently heard Hernandez plead to the security agents and a gunshot coming from the family's garden. Neighbors witnessed the injured victim being placed in a DISIP vehicle and driven away. The DISIP stated that it did not arrest Hernandez. Neither individual had been located at year's end; investigations into both cases continued.

The Government's investigation of the Vargas cases has been slow and disorganized, and charges have been filed in only one case (see Section 1.a.). The investigating team has been changed three times, with each new team starting a new inquiry afresh. The Government has been unable to compel the cooperation of the DISIP. In response to a request to provide photographs of the agents who operated in Vargas at the time of the disappearances, the DISIP supplied an album that included photographs of retired agents, deceased officers, and prisoners. Prosecutors also are investigating whether DISIP agents broke any laws when they visited army paratroopers and asked questions about army officers who had served in Vargas in December 1999. Since investigation of the paratroopers is the responsibility of the Prosecutor General and the army, the possibility that DISIP agents were engaged in witness intimidation is under investigation. Human right groups called for obstruction of justice charges to be brought against the DISIP to compel its cooperation.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The new Constitution prohibits torture and the holding of detainees incommunicado, provides for the prosecution of officials who instigate or tolerate torture, and grants victims the right to rehabilitation. Under the COPP, detainees have the right to a judicial determination of the legality of their detention within 3 days, a reduction from the previous 8-day period that human rights groups argued was the principal time in which detainees were tortured (see Section 1.d.); however, the security forces continue to torture and abuse detainees physically and psychologically. Credible human rights groups report that this abuse most commonly consists of beatings during arrest or interrogation, but there have been incidents when the security forces used near suffocation and other forms of torture that leave no telltale signs. Most victims come from the poorest and least influential parts of society.

PROVEA documented 429 cases of torture, beatings, and other abuse from October 1999 through September, compared with 424 cases from October 1998 through September 1999. According to PROVEA, the Metropolitan Police of the Caracas federal district were responsible for 94 of the reported incidents; other state police forces were responsible for 147 incidents; the National Guard, 93 incidents; the municipal police forces, 58 incidents; the DISIP, 22 incidents; the army, 9 incidents; and the PTJ, 6 incidents. In April 1999, human rights NGO's presented a report to the U.N. Committee Against Torture in which they documented 120 torture cases since 1987 that they have investigated and reported to the Prosecutor General and the National Human

Rights Commission, but that still have not been investigated fully by the Government.

Torture, like extrajudicial killings, continues because the Government does not ensure the independent investigation of complaints needed to bring those responsible to justice. In addition to lack of vigor by the judiciary, the fact that the Institute of Forensic Medicine is part of the PTJ also contributes to a climate of impunity, since its doctors are unlikely to be impartial in their examinations of cases that involve torture by members of the PTJ. Very few instances of torture have resulted in convictions.

On March 1, according to Red de Apoyo, the Zulia state police arrested Jose Matheus in his home and accused him of involvement in a kidnaping. The police held Matheus incommunicado for 11 days and severely beat him and tortured him psychologically.

On April 8, the Metropolitan Police tortured and threatened to kill Donis Ramirez if she spoke to the authorities. Ramirez had seen the police fire indiscriminately at a group of individuals who had just witnessed them shoot and kill a suspected criminal, also killing one of the witnesses, Guillerma Colmenares (see Section 1.a.).

There was no prosecution for the August 1999 torture of Juan de la Cruz Bravo by the PTJ in Guasdalito. Bravo, who had been accused of murder, allegedly was drugged, beaten, and subjected to electrical shock. There was also no prosecution for the March 1999 beating of Andres Flores by the Metropolitan Police.

No action ever was reported against some 50 Baruta municipal police officers who attacked residents of the poor working class Caracas suburb of Petare in December 1997, injuring 43 persons. There was no reported progress from the criminal court investigation or the internal investigation by the chief of the Baruta municipal police.

The police used tear gas and pellet guns against peaceful demonstrators, resulting in some injuries (see Section 2.b.).

In the Colombian border area where some constitutional protections had been suspended since 1994, the National Guard and army acted with near impunity until the suspension of the protections was lifted in 1999. Complaints against the security forces in this area subsequently decreased. The Support Network for Justice and Peace has documented many human rights abuses in this region by amassing detailed witness testimony. There has been no resolution of the border area cases from 1995, in which members of the military, in separate incidents in reaction to guerrilla attacks, tortured 23 rural workers near Cararabo and 19 peasant farmers in La Victoria, both in Apure state. The investigations into these incidents continued at year's end.

Prison conditions continued to be extremely harsh due to underfunding, poorly trained and corrupt prison staff and National Guard members, violence, and overcrowding in some prisons so severe as to constitute inhuman and degrading treatment. During the year, the prison population decreased to 84 percent of capacity, due to the implementation of the COPP. However, because of the poor distribution of inmates, approximately 40 percent of prisoners still are housed in seriously overcrowded facilities.

The Government failed to provide adequate security in prisons, resulting, according to PROVEA, in 338 deaths and 1,255 injuries from violence in jails from October 1999 through September 2000--a decrease from a total of 390 deaths and 1,695 injuries from violence between October 1998 and September 1999. The majority of the 338 inmate deaths resulted from prisoner-on-prisoner violence, especially during clashes between rival gangs, riots, fires, and generally unsafe conditions in prison facilities. Many others died as a consequence of poor sanitary conditions, poor diet, and inadequate medical care. Security forces committed a small number of the killings in prisons. Prisoners also had false expectations with respect to the benefits of the COPP, which resulted in increasing levels of tension and violence. Funding for prisons remained extremely low, preventing significant improvement in most penitentiaries.

Inmates often have to pay guards as well as each other to obtain necessities such as space in a cell, a bed, and food. Because of the prison food's low quality and insufficient quantity, only about 30 percent of inmates consume it. Most prisoners get their food from their families, by paying prison guards, or in barter with other prisoners. Many inmates also profit from exploiting and abusing others. This problem is exacerbated by the absence of a rational system of prisoner classification: convicted murders and rapists are housed with unsentenced first-time petty offenders. Gang-related violence and extortion is fueled by the substantial trafficking in arms and drugs that occurs in the prisons.

Female prisoners are detained in separate prisons, where conditions generally are better than those in the men's facilities. Security forces and law enforcement authorities often detain minors together with adults; however, separate facilities exist for juveniles. Because reform institutions are filled to capacity, hundreds of

children accused of infractions are confined in juvenile detention centers where they are crowded into small, filthy cells, fed only once a day, and forced to sleep on bare concrete floors.

On August 31, the prison emergency, which had been declared on September 30, 1999, was ended, and the Interinstitutional Commission managing it was disbanded. Despite resistance from the Catholic Church and NGO's, the Government sporadically used the National Guard, normally charged with guarding the outside of the prisons, to maintain internal control of the prisons.

The Government permits prison visits by human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution and the COPP provide for freedom from arbitrary arrest and detention; however, the security forces routinely continued to arrest and detain citizens arbitrarily at an increased rate.

There continued to be arbitrary detentions by the Metropolitan Police of the federal district of Caracas, the DISIP, municipal police forces, the National Guard, and the PTJ--especially during anticrime sweeps in impoverished sections of major cities. The authorities detained persons during the sweeps for up to 2 days while they checked criminal records; most were released without charges. PROVEA documented 8,981 persons detained in sweeps from October 1999 through September, an increase from the 6,236 persons detained in sweeps from October 1998 through September 1999.

Amnesty International reported that in September, police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 5).

In December 1999, security forces arbitrarily detained suspected looters in Vargas state (see Sections 1.a., 1.b., 1.c., and 4).

The COPP states that a person accused of a crime cannot be incarcerated during criminal proceedings unless that person is caught in the act of committing a crime, or a judge determines that there is a danger that the accused may flee or impede the investigation. Under the previous system, the police could hold persons without an arrest warrant for up to 8 days, and in many cases, the police abused detainees physically and psychologically during that period and illegally held them incommunicado (see Section 1.c.). The law provides for the right to a judicial determination of the legality of the detention within 72 hours. Persons accused of crimes must be brought before a judge within 24 hours of arrest or be freed pending charges. In early March, the Government announced that pretrial hearings would be held on weekends to allow the authorities to process detainees in accordance with the COPP's provisions, rather than release suspected criminals. In no case can the detention of a person accused of a crime exceed the possible minimum sentence for the crime committed, nor can it exceed 2 years. Confusion over the new code still exists, and arbitrary arrests continue to be common. Prison officials often illegally demand payment from prisoners for transportation to judicial proceedings. Those who are unable to pay often are forced to forgo their hearings.

Before the COPP came into effect in 1999, roughly 70 percent of prisoners had not been convicted of a crime because, under the old procedural code, most criminal defendants were incarcerated rather than granted provisional liberty while their prosecutions were pending. In addition, the slow and secretive inquisitorial justice system of the old code had led to an inefficient, overwhelmed, and corrupt justice system, which resulted in cases languishing an average of 4 to 5 years in the courts, during which time the accused usually remained in jail. Under the COPP, prisoners accused of petty crimes who have not been convicted but already have served 2 years or the minimum sentence possible for that crime (whichever is lesser) are to be released if they pass a psychiatric examination. During the year, approximately 9,000 prisoners were released under the new provisions and benefits provided by the law. There were approximately 14,200 prisoners at year's end, 45 percent of whom have not been convicted of a crime--a decrease from 57 percent in 1999.

Prisoners carried out protests to demand that the Government expedite the review of the cases of inmates who might benefit from the COPP's provisions. While there were still some prisoners who had not been convicted but already had served 2 or more years in prison, prisoners also had false expectations with respect to the benefits of the COPP, which resulted in tension and violence (see Section 1.c.).

Forced exile is illegal and is not practiced.

e. Denial of Fair Public Trial

The civilian judiciary is legally independent; however, it is highly inefficient and sometimes corrupt, and judges are subject to influence from a number of sources, including the executive branch.

The judicial sector consists of the Supreme Court, which is the court of final appeal; the Prosecutor General, who provides opinions to the courts on prosecution of criminal cases and brings public employee misconduct and violations of the constitutional rights of prisoners or accused persons to the attention of the proper authorities; the Ministry of Interior and Justice, which manages the national police force, oversees the prisons, and files complaints in criminal courts; and the executive directorate of the magistrate, which oversees the lower courts as well as the selection and training of judges. The lower court system includes district and municipal courts as well as trial and appeal courts that deal with civil and criminal matters.

Both the old code and its 1999 replacement, the new Organic Code of Criminal Procedures, provide for the right to a fair trial and consider the accused innocent until proven guilty in a court. However, under the old secretive inquisitorial code, the presumption of innocence was ineffective in the justice system, which became overburdened, inefficient, and corrupt under a paper-intensive, costly, and time-consuming judicial process. Judges are underpaid, poorly disciplined, and susceptible to political influence. The COPP introduced for the first time open, public trials with oral proceedings and verdicts by juries or panels of judges. This new adversarial system of justice gives practical effect to the presumption of innocence and eliminates the secret stage of trial that had existed in the previous system. It also establishes the right to plead guilty and make reparation agreements, a statute designed to clear the overburdened justice system of simple cases and minor offenses. Lengthy delays in trials were still common, although there has been some improvement.

The Government continued to struggle to implement the COPP, which required a major shift in the fundamental concept of how justice is carried out, the legal procedures involved, and the respective roles of the police, the judge, and the lawyers. The police no longer may detain persons arbitrarily for up to 8 days and now must work under the supervision of a prosecutor; judges have ceased to be investigators and are now arbiters of law; and prosecutors and defense attorneys confront one another in open court. For the second year, open, oral trials took place around the country despite a shortage of trained personnel and resources. The COPP's successful implementation over the long term is expected to require further progress, including increased training for police and lawyers and a significantly increased number of prosecutors and defenders to handle the workload.

The law provides for public defenders for those unable to afford an attorney; however, there are not enough public defenders to handle the caseload. The Executive Directorate of the Magistrature (DEM), which replaced the Judicial Emergency Commission, reported that there are approximately 275 public defense attorneys for the entire country.

The Government ended the Judicial Emergency created in 1999 to bring about reform of the judicial system; however, significant attempts to reform the judicial system continued. During the year, the DEM--which oversees the selection, training, and discipline of judges--removed 100 judges from office based on charges of incompetence or corruption and suspended an additional 350 judges. Suspended judges continued to receive salaries; however, some observers charged that their right to appeal was restricted. The Government announced that it expected to hold the first competitive examinations for judicial vacancies, a process established under the COPP, in January 2001 in Miranda and Vargas states. Judges with pending cases against them were not eligible to take the examinations, and judges who had been reprimanded had points deducted from their scores.

In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to "take care" with the process to suspend a judge handling a politically sensitive libel case against editor Pablo Lopez Ulacio (see Section 2.a.). In August Molina resigned, claiming that he lacked the political support needed to continue his duties.

The military courts implemented a similar reform of the military justice system and are making the transition to the new system. The December 1999 Constitution established that trials for military personnel charged with human rights abuses would be held in civilian courts; this represented a fundamental change in human rights policy. However, the provision does not apply to military trials for cases that predate the new Constitution. Human rights NGO's expressed concern that the Supreme Court's selection of military judges from a list of candidates provided by the Minister of Defense links the careers of military judges to the high command, making them more responsive to the views of their military leaders and influencing them to act slowly in cases in which the military is implicated. As a result, military judges trying human rights cases that predate the new Constitution can be subject to improper influence, and offenders might evade punishment for extrajudicial killings and other human rights abuses.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Constitutional provisions prohibit arbitrary interference with privacy, family, home, and correspondence; however, the security forces infringed on citizens' privacy rights. Security forces often conducted searches of homes without warrants, especially during anticrime sweeps in impoverished neighborhoods. There were no complaints during the year by human rights NGO's of illegal wiretapping by the security forces.

In April DISIP announced that it had dismissed some 50 agents for engaging in illegal wiretapping of other government agencies. In July during a dialog the DISIP held with the national Ombudsman's office and NGO's about a proposed restructuring of the National Intelligence System (which was not carried out at year's end), the agency stated that it had files on 1 in every 19 citizens (or 520,000 individuals).

During the campaign for the July 30 elections, DISIP agents searched offices of an opposition governor, despite a 1999 promise by President Chavez that the DISIP would not be used for political operations (see Section 3).

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and while the Government generally respects these rights in practice, some media critics charge that the Government intimidates the media and report that self-censorship is widespread. Individuals and the media freely and publicly criticize the Government; however, concern over freedom of the press increased during the year. A provision in the December 1999 Constitution states that all persons have the right to "timely, truthful, and impartial" information, without censorship. This "truthful information" article has raised concerns among many in the domestic and international media that it could be used by the Government to censor or intimidate the press. In April the governor of Apure state issued a decree requiring "true information" within the state. There were immediate protests, and the governor withdrew the decree. Also in April, officials of the National Electoral Council stated that the Council was considering possible regulations governing the publication of political polls. There were strong protests from the media, and no regulation or legislation ever was proposed formally.

There were numerous allegations of inappropriate government pressure against the media. In January the DISIP questioned two reporters from the daily *El Nacional* about articles they had written about beatings and extrajudicial killings in Vargas in December 1999 (see Sections 1.a. and 1.c.). A subpoena was issued that required one reporter to name her sources. She was threatened with imprisonment or fines for noncompliance; however, no action was taken against her when she refused to provide the information. In May the television program *24 Hours*, hosted by Napoleon Bravo on the Venevision station, was canceled. Bravo charged that government pressure was to blame; government and network officials denied the accusation. Individual journalists and editors have reported receiving intimidating or threatening phone calls.

The Constitution also provides for the "right to reply" for individuals who believe they are portrayed inaccurately in media reports. President Chavez demanded a right to reply on several occasions. However, certain individuals named by the President in his weekly national radio show have complained that they have not been granted the right to reply.

In September a court dismissed a long-running criminal defamation suit against a journalist and editor of the monthly magazine *Exceso*. The Inter-American Press Association had protested the case, in which it was alleged that a businessman who was the subject of a critical article in *Exceso* used improper influence over the judiciary to retaliate against the magazine. A separate criminal defamation suit, against weekly newspaper *La Razon*, continued at year's end; the International Committee to Protect Journalists has protested this case. On July 8, a judge ordered Pablo Lopez Ulacio, the editor of *La Razon*, placed under house arrest for failure to appear in court to answer libel charges brought against him by Tobias Carrero Nacar, a businessman and friend of President Chavez. In the spring, *La Razon* published articles that alleged that Luis Miquilena, president of the National Legislative Committee (CLN), had influenced improperly insurance contracts to Carrero. The DEM sanctioned the judge who issued the house arrest order, and he eventually recused himself from the case. In July legal experts expressed concern about interference with the independence of the judiciary when a politician close to the President telephoned the Inspector General of the courts, Rene Molina, and asked him to "take care" with the process to suspend the judge (see Section 1.e.). Lopez was released from house arrest after 1 week; however, a new arrest order was issued, and Lopez went into hiding. Because of the lengthy process and considerable legal costs, both lawsuits have been interpreted by some observers

as examples of the use of criminal defamation or libel lawsuits, or the threat of such lawsuits, to intimidate journalists and discourage investigative journalism.

There were no reports of government-sponsored attacks on journalists; however, several journalists were assaulted physically or verbally for what appear to have been political motives. Some observers assert that President Chavez's aggressive rhetoric in criticizing the media as having portrayed him unfairly has contributed to a climate of intimidation and hostility toward the media that encourages such attacks. At one presidential press conference in Maracay in March, reporters refused to ask President Chavez questions in protest of what one termed "the President's constant attacks against the media." During a May 1 campaign march by President Chavez, some partisans attending the campaign chanted slogans that characterized reporters as "traitors" and "enemies," pushed or hit journalists, and attempted to destroy their equipment. President Chavez later condemned these assaults. In February anonymous leaflets were distributed throughout the Caracas subway that criticized journalists as "enemies of the revolution" and named certain prominent journalists.

In September 1999, government officials complained that international media coverage of events was unfair, and some made allegations of "an international media conspiracy." Also during that month, a small group of activists occupied the offices of the Associated Press in protest of the news service's supposed antigovernment stance. A regional radio station alleged that state security agents searched its offices in what the radio viewed as an effort to intimidate.

Instances of bomb threats--and on two occasions in December 1999, discoveries of small explosive devices in or near newspaper buildings--have contributed to what some journalists have called "a climate of intimidation" of the media. In February the Venezuelan Press Association publicly commented on the deteriorating situation for press freedom in the country.

There is no statutory censorship. The Government has tools to influence the press, such as licensing requirements for journalists, broadcast licensing concessions for television and radio stations, and lucrative public sector advertising. However, in practice, the media environment is free and open, although some journalists believe that self-censorship is becoming more widespread. Few newspapers regularly publish editorials that reflect the view of the newspaper, but signed articles on opinion pages carry abundant and varied perspectives, often highly critical of the Government. Radio and television stations do not broadcast overt institutional political opinions, although opinion and talk shows are common.

A 1994 law requires practicing journalists to have journalism degrees and be members of the National College of Journalists. These requirements are waived for foreigners and for opinion columnists, on the grounds of tolerance of free speech. Media owners challenged the law in November 1995, but the Supreme Court still had not ruled on this matter at year's end.

Print and electronic media are independent. There are state television and radio stations whose directors are named by the President but whose broadcast policies are autonomous. The Government financed and published the newspaper *The President's Post* during the first 6 months of the year. The President has a weekly call-in radio show on state-run Radio Nacional. At the President's discretion, his speeches or other public appearances may be declared a "national broadcast." All television and radio stations are required by law to preempt scheduled programming and transmit the national broadcasts in their entirety (on occasion, 2 or more hours) instead. A documentary-style "news program," varying in length from 5 to 15 minutes, produced by the President's staff, began airing in June. The program, which focuses heavily on the activities of the President and the Government, is produced one or more times a week. It is broadcast before regularly scheduled evening news programs. Like the national broadcasts, by law every television station must broadcast these programs.

The International Association of Broadcasting and domestic media figures criticized provisions of a telecommunications law enacted in June. The parts of the law related to broadcast content and frequency concessions were particularly controversial. Article 209 establishes that the President, "when he judges it convenient to the interests of the nation, or when required for reasons of public order or security, can suspend telecommunications broadcasts, in conformity with the Constitution." Some observers believe that this article might allow the suspension of media broadcasts for vague and arbitrary reasons.

In April Monsignor Baltazar Porras, the president of the Roman Catholic Episcopal Conference of Venezuela (CEV), publicly criticized the Government regarding a lack of electoral transparency, growing social instability, and the supraconstitutional activities of the CLN. Following these criticisms, the press reported that DISIP videotaped a Mass said by Monsignor Porras. The Director of DISIP immediately apologized, the agent was suspended, and the national Ombudsman's office opened an investigation of the incident. Bishops also reported receiving telephone threats during the CEV's assembly. In October the governor of Merida state announced that he had made a formal request to the public prosecutor to begin a criminal investigation of

Monsignor Porras for alleged financial irregularities relating to the Church's administration of a publicly funded hospital. Because Monsignor Porras has criticized the Government, some observers interpreted the investigation as retaliation for that criticism.

There is no state censorship of books, films, or other media products. Internet access is completely free and uncontrolled.

The Government traditionally has respected academic freedom; however, there have been isolated allegations that individual professors at state universities have been removed or warned of possible removal from their academic positions because of outspoken political views.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of peaceful assembly, and the Government generally respects this right in practice. Public meetings, including those of all political parties, generally are held unimpeded. The Government requires permits for public marches but does not deny them for political reasons.

The December 1999 Constitution prohibits the use of firearms to control peaceful demonstrations; however, as in previous years, some demonstrations turned violent and were quelled by security forces. According to PROVEA, no persons were killed, but 139 persons were injured during demonstrations from October 1999 through September, compared with 2 persons killed and 77 injured from October 1998 through September 1999. The student and teaching sectors carry out the largest number of protests, and the security forces quell the majority of their demonstrations.

On April 5, residents of Cojedes state protested threats by the CLN to remove Governor Alberto Galindea for alleged financial irregularities. The protests in San Carlos and Tinaquillo turned violent, and the National Guard and state police intervened with tear gas. Approximately 18 persons were wounded and affected by tear gas; the state legislative assembly building was destroyed.

On November 5-6, students in Merida protested the death of a fellow student under suspicious circumstances at the hands of the police. The protest became violent and security forces sent tanks, 350 soldiers, and 150 police to stop the demonstration. Police detained 18 persons.

The Constitution provides for freedom of association, and the Government respects this right in practice; professional and academic associations generally operate without interference. However, on November 21, the Supreme Court ruled that (1) Nongovernmental organizations that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelan citizens in court or bring their own legal actions; (2) Religious organizations are not part of civil society and are subject to the same restrictions; and (3) The Government has an obligation to ensure that NGO's are "democratic in nature" and therefore that the internal elections of nonprofit groups (such as for boards of directors) can be regulated by the National Electoral Council. While there is ambiguity as to how the ruling is to be implemented, NGO's, labor unions, and other members of civil society expressed serious concerns about the ruling. The national Ombudsman's office questioned the constitutionality of the ruling and argued that it was up to civil society itself to define its members, not the Government.

c. Freedom of Religion

The Constitution provides for freedom of religion, on the condition that the practice of a religion does not violate public morality, decency, and the public order, and the Government generally respects this right in practice.

Each local church must register with the Directorate of Justice and Religion in the Ministry of Interior and Justice in order to hold legal status as a religious organization and to own property. The requirements for registration are largely administrative. However, some groups have complained that the process of registration is slow and inefficient. Foreign missionaries require a special visa to enter the country, which is obtained through the Ministry. Missionaries are not refused entry generally, but many complain that the Government often takes months or years to process a request.

In 1964 the Government and the Holy See signed a concordat that underscores the country's historical ties to the Roman Catholic Church and provides government subsidies to the Church, including to its social programs and schools. Other religious groups are free to establish and run their own schools, but they do not receive subsidies from the Government.

On November 21, the Supreme Court ruled that religious organizations are not part of civil society and that their legal rights therefore were restricted (see Section 2.b.).

On several occasions, leaders of the Roman Catholic Church were monitored or threatened by state agents for political reasons (see Section 2.a.).

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for the right of citizens and legal residents to travel within the country and to go abroad and return, and the Government generally respects these rights. However, the Government can suspend the freedom to travel, as it did from June 1994 to July 1995. The Government also restricts foreign travel for persons being investigated for criminal activities. For 3 weeks in December 1999 and in January, the security forces sometimes restricted movement in and out of the areas hardest hit by the floods.

The Constitution recognizes and provides for the right to asylum and refuge and mandates the passage of an organic law to codify this right. However, there is no domestic legislation regarding determination of refugee status, the procedure or criteria to be applied, and no independent organization to handle asylum requests exists. In the absence of any such legislation, the Government established an Interministerial Technical Commission (CTI) in 1999 to address cross-border movements and allows the Venezuelan Bishops' Conference to coordinate with the U.N. High Commissioner for Refugees (UNHCR) in assisting refugees. In 1999 there were a total of 188 persons in the country who had been granted refugee status. Approximately 100 individuals filed asylum claims during the year; however, the CTI did not rule on any requests.

The Government in theory provides first asylum. However, in August 500 Colombians entered the country following a paramilitary attack in the La Gabarra-Tibu area of Colombia. The Government provided humanitarian aid but, in coordination with the Colombian Government, quickly repatriated all of the Colombians. The Government determined that the Colombians were not refugees but "displaced persons in transit." This term does not exist in international humanitarian law, and its use appeared to be designed to avoid the Government's international obligations to "refugees." The accelerated procedures adopted by both governments for the return of the Colombians limited their opportunity to seek asylum, despite the intention previously stated by some members of these groups to different NGO's and the UNHCR.

A similar episode occurred in June 1999, when some 3,500 Colombians entered the country in 3 waves following a paramilitary offensive in the Catatumbo area of Colombia. These individuals also were termed "displaced persons in transit," and quickly repatriated in coordination with the Colombian Government. There are reports that some of those returned subsequently were killed by paramilitary forces in Colombia. There were no other reports of the possible forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The 1999 Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right through periodic, free, and fair elections held on the basis of universal suffrage. The Constitution provides for the direct election of the President and unicameral National Assembly, as well as of state governors, state legislative councils, and local governments. Political parties organize, and their candidates are allowed freely to run for office and to seek the support of voters. The President has extensive powers; however, the legislature appoints the members of the Supreme Court, the National Electoral Council, and the so-called Citizen Power consisting of the Prosecutor General, Ombudsman, and Controller General.

At President Chavez's behest, the National Constituent Assembly (ANC) decreed general elections in order to "relegitimize" authorities elected under the (now-defunct) 1961 Constitution. The new Constitution, which went into effect on December 30, 1999, replaced the previous bicameral legislature with a unicameral body, and membership in the former could not simply be carried over to the latter.

The CNE, whose members were appointed on a temporary basis by the ANC at the end of December 1999, organized the elections. In making these appointments the ANC, citing an earlier Supreme Court decision acknowledging that it had "super-constitutional" powers, made no attempt to apply even in spirit the procedures set forth in the new Constitution regarding civil society participation in the selection process. This unilateral selection by the ANC (which easily approved a slate provided by its leadership) of the members of the CNE was criticized widely by the political opposition, media, and NGO's. These groups also criticized similar measures taken by the ANC in choosing its replacement body--the National Legislative Committee, as well as in making interim appointments to the Supreme Court and the Citizen Power. The CLN was an unrepresentative 21-member panel given responsibility in January for serving as the country's legislature pending election of the National Assembly. The CNE invited representatives from the campaign teams to

participate in their work.

Elections were scheduled by the ANC for May 28 for every elected office in the country; more than 35,000 candidates ran for some 6,000 offices. On March 28, the Constitutional Chamber of the Supreme Court dismissed two suits that challenged the constitutionality of the election law and consequently the scheduled date of May 28 for the elections. However, as the scheduled date approached, it became increasingly apparent that the CNE had failed to organize them adequately. Constant changes to the voter data base--which both the opposition and NGO's have alleged were intended to offer electoral advantage to President Chavez's supporters--made it impossible to complete programming of the electronic voting machines or carry out other necessary steps.

Faced with the prospect of a chaotic and highly contested election, the CNE decided at the last minute to serve as a friend of the court in a pending suit by two NGO's before the CNE seeking delay of the election. On May 25, the Supreme Court ordered the delay and gave responsibility for setting the new date to the CLN. This decision also gave the Controller General oversight powers over the CNE.

The members of the CNE resigned following the delay, after the CLN formally requested their resignations. After some initial reluctance the CLN agreed that a "national roundtable," on which some of its members and representatives of civil society would sit, would choose the new Council. That new Council included nonpartisan civil society members, including its president. Observers generally agree that the new National Electoral Council, chosen by the CLN on June 3, organized the elections in a competent and fair way.

The CLN set the date for the elections at July 30. It also decreed that, for practical reasons, those elections would be limited to president of the republic, national and state legislators, governors, and mayors, with election of municipal and parish councils to be held on October 1. The CLN noted that July 30 was the earliest date by which even the smaller-scope elections it had now decided on could be held, as the new CNE had to redo almost all the preparatory work of its predecessor. The CLN also noted that to include municipal and parish councils in the July 30 vote would triple the number of candidates and offices and, for organizational reasons, would postpone the vote for several months and further prolong the country's period of constitutional transition. Citizens, including many members of the opposition and media, generally regarded these arguments as valid. However, leading presidential challenger Francisco Arias Cardenas criticized the decision of the CLN to split the elections and hold the first component on July 30, a decision that he alleged was intended to put him at a disadvantage. In July a confidential report by the Controller General was leaked to the press; the report identified deficiencies in the work of the CNE.

During the election campaign, DISIP agents carried out searches of the offices of the opposition governor of Merida state, despite the fact that, upon taking office in 1999, the Chavez Government declared that the DISIP and other intelligence agencies no longer would be used for domestic political purposes. While the stated reason for the operations was to gather evidence for corruption investigations, the timing of the searches gave the impression of political harassment.

On July 30, voters reelected President Chavez with 59 percent of the vote. His challengers, Francisco Arias Cardenas and Claudio Fermin, received 38 percent and 3 percent respectively. Chavez's supporters won a majority (92 seats) in the 165-seat National Assembly, although not the two-thirds majority required to pass most important pending legislation. His supporters also won half the governorships. The Organization of American States and observers from various countries were of the opinion that, despite some technical irregularities, the vote was generally free and fair. A limited number of voting machines failed to accept ballots or otherwise broke down, and there was disorganization at some polling places, but in the opinion of observers these were localized problems. Standard backup procedures for voting machine failure, such as placing ballots in sealed boxes for later manual counting or processing by functioning voting machines, were followed. However, some of the losing candidates alleged fraud. For example, Arias maintained, among other things, that voting machines were programmed to undercount votes received by him. He and other disappointed candidates were pursuing existing administrative and judicial remedies at year's end. Losing candidates for several governorships alleged that fraud or irregularities affected the outcome of the voting. The CNE investigated these allegations, ordered recounts in some cases, and determined that the disputes were valid in several states, in which it ordered partial revotes. The CNE's follow-up work to the July 30 elections continued at year's end.

On December 3, voters participated in elections for municipal and parish councils and voted on a controversial referendum on labor issues (see Section 6.a.).

In December the President and the National Assembly replaced the interim appointees to the Supreme Court and the Citizen Power in a process that was criticized by the political opposition, the media, and NGO's, who argued that the procedures set forth in the new Constitution regarding civil society participation in the selection

process were not followed. The Ombudsman and others challenged the selection procedure in the courts; however, the appointments were made and the new officials took office in December, despite the fact that the Supreme Court had not yet ruled on the legal challenge.

In November the National Assembly passed an "enabling law" that gave President Chavez the authority to legislate by decree on selected issues related to the economy, reorganization of government ministries, and crime. However, only one law had been passed using these new powers by year's end.

Women and nonwhites participate fully in government and politics; however, they remain underrepresented in senior leadership positions and national elective office. The National Assembly's Family, Women, and Youth Committee promotes political office-holding opportunities for women. In the July 30 elections, women won 20 seats as deputies in the 165-seat legislature. In August President Chavez named 3 women to his 14-member Cabinet as Ministers of Labor, Trade, and Environment. In December President Chavez appointed Adina Bastidas as vice president.

Indigenous people traditionally have not been integrated fully into the political system due to their limited knowledge of politics, low voter turnout, geographic isolation, and fewer economic and educational opportunities. During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote. The Yanomami argued that the Government's slowness in providing national identity cards, which are required to register to vote, was infringing on their right to suffrage. The Supreme Court ruled against the group's request for an exception to be made to the registration deadline, and they were unable to vote in the July 30 elections. The group of Yanomami subsequently was able to register, and they voted in the December municipal elections. The new Constitution reserved three seats in the National Assembly for indigenous people, and these seats were filled in the July 30 election. There are no indigenous members of the Cabinet.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups generally operate without government restriction, investigating and publishing their findings on human rights cases.

In January President Chavez criticized a report by PROVEA on the human rights violations in Vargas state as "suspicious and superficial" and said that the NGO's refusal to name the witnesses on which the report was based was irresponsible. The President later pledged to investigate the abuses and met with the victims' families, and the Government invited the IACHR to make an on-site visit to the country, which had not taken place at year's end.

On November 21, the Supreme Court ruled that NGO's that receive funding from foreign governments or whose leaders are not Venezuelan are not part of "civil society" and therefore may not represent Venezuelans in court or bring their own legal actions (see Section 2.b.).

A fundamental change in the Government's own human rights bodies was made when the December 1999 Constitution created the position of "Defender of the People" (Ombudsman). The Ombudsman is responsible for compelling the Government to adhere to the Constitution and laws and, together with the Prosecutor General and Controller General, makes up the Citizen Power branch of government. Throughout the year, the country's first Ombudsman, Dilia Parra, repeatedly and frankly advocated for the respect of human rights and assisted investigations of abuses by acting as a liaison between complainants and the Prosecutor General. Despite a limited budget, the Ombudsman's office established branches and public attention centers in all 23 states. On December 20, in a process that some observers charged was unconstitutional, the National Assembly named attorney German Mundarain as the new Ombudsman to replace Parra (see Section 3). The new Constitution also obliges the Government to make amends to the victims of human rights violations and commits it to implement decisions of international bodies on individual cases of abuse.

Human rights groups remained concerned about the Chavez administration's lack of a human rights agenda and a lack of support for the national human rights agenda formulated by the previous Government in a July 1997 symposium with NGO's. Unlike the previous year, President Chavez did not meet with NGO's to discuss human rights issues. The Government continued to fail to support the National Human Rights Commission created by former President Rafael Caldera in 1996 as a mechanism to coordinate the Government's human rights programs and to serve as a forum for dialog with NGO's. Despite the commission's paralysis, NGO's have developed good relationships with specific government bodies such as the Ministry of Education to develop educational materials on human rights, and the Foreign Ministry to discuss the resolution of existing human rights cases against the Government in international courts.

The Defense Ministry's human rights office expanded its staff from one to three officials and continued to carry out training courses as part of the armed force's curriculum. The Defense Ministry continued to reject the validity of NGO reports of alleged human rights violations by the armed forces and remained unwilling to provide evidence to refute the charges, citing confidentiality regulations.

Following the July 30 elections, the National Assembly established an Interior, Justice, Human Rights, and Constitutional Guarantees Committee.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The 1999 Constitution expressly prohibits discrimination on the basis of politics, age, race, sex, creed, or any other condition, and the law prohibits discrimination based on ethnic origin, sex, or disability. However, the Government does not protect women adequately against societal and domestic violence, ensure the disabled access to jobs and public services, or safeguard adequately the rights of indigenous people. Amnesty International reported that in September police in Valencia, Carabobo state, detained four transgendered persons, who were held incommunicado for 2 days without food or drinking water (see Section 1.d.). The family of one of the detainees filed a formal complaint with the Public Ministry.

Women

Violence against women is a problem, and women face substantial institutional and societal prejudice with respect to rape and domestic violence. Domestic violence against women is very common and has been aggravated by the country's economic difficulties. A total of 14,683 cases of domestic violence were reported to the authorities in 1997, the most recent year for which statistics were available. According to local monitors, the police generally are unwilling to intervene to prevent domestic violence, and the courts rarely prosecute those accused of such abuse. In addition, poor women generally are unaware of legal remedies and have little access to them. On January 1, the 1999 Law Against Violence Toward Women and Children came into force. The PTJ opened the division against violence to accommodate its provisions. This law requires the police to receive reports of domestic violence and obligates hospital personnel to advise authorities of abuse.

The law makes rape extremely difficult to prove, requiring at a minimum medical examination within 48 hours of the violation. A provision in the Penal Code provides that a man guilty of rape can avoid punishment if, before sentencing, he marries the victim. Few police officers are trained to deal responsibly with rape victims. In 1997, the most recent year for which statistics were available, the police received 7,426 reports of sexual crimes, of which over 3,600 were cases of rape. However, women's organizations assert that such low figures do not accurately portray the problem of rape and sexual assault. They claim that many victims do not report the incident or press charges due to societal pressure and their own feelings of guilt. There were reports that a number of rapes were committed in Vargas state in December 1999 during the lawlessness that followed the flooding.

In 1996 the National Women's Council (which was reorganized during the year and renamed the National Institute for Women), an agency of the presidency with representation from the Ministries of Justice, Education, Family, Health, and Labor, prepared a manual on violence against women and children, which includes information on where the victims might obtain assistance. There are a number of NGO's concerned with domestic violence, sex education, and economic discrimination. However, the recommendations of these groups have not been implemented widely by the police or other concerned governmental agencies.

Sexual harassment in the workplace is a common problem.

There were reports that women were trafficked to Spain for purposes of prostitution (see Section 6.f.).

Women and men are legally equal in marriage. Women account for roughly half the student body of most universities and have advanced in many professions, including medicine and law. In June the Government announced its intention to allow women to attend military academies and serve in expanded roles as officers in the armed forces; however, this had not occurred by year's end. Women gradually have surmounted many of the barriers to their full participation in political and economic life; nonetheless, they still are underrepresented in the higher ranks of labor unions and private industry and, on average, earn 30 percent less than men.

The 1999 Constitution provides for sexual equality in exercising the right to work. The Labor Code specifies that employers must not discriminate against women with regard to pay or working conditions, must not fire them during pregnancy or for a year after giving birth, must grant them unpaid leave and benefits for 6 weeks before the birth of a child and 12 weeks after, and must provide them with 10 weeks of unpaid leave if they legally adopt children under 3 years of age. According to the Ministry of Labor and the major labor federation,

these regulations are enforced in the formal sector, although social security payments often are delayed.

Children

Government expenditures on education, health, and social services increased during the year due to an improved economy and a larger government budget. While the law provides for universal free education, about one-third of the Ministry of Education budget was dedicated to post-secondary education, leaving both primary and secondary education chronically underfunded. According to UNICEF, only 75 percent of eligible children enter the first grade. During the year, some 500,000 children attended school for the first time when the Government prohibited registration fees. However, the 2000 annual report of the Community Centers for Learning (CECODAP) stated that 500,000 children are not eligible to receive government assistance, including public education, because their births are not documented properly. In 1998 the Government attempted to remedy this problem by adopting a new regulation that requires hospitals to register the births of all children; during the year, the Government sent mobile teams into poor neighborhoods to register minors.

According to CECODAP's study, an estimated 500,000 children, most under the age of 5, have an average of 2 episodes of gastroenteritis a year, a sickness that is the ninth leading cause of death in the country. According to a 1999 study by the National Nutrition Institute, 23 percent of children under the age of 15 have a nutritional deficit. Approximately 76 percent of minors live in poverty. These conditions contribute to the increase in preventable diseases that are leading causes of infant mortality. Children living in Vargas state suffered the effects of the flooding in that area, particularly with regard to sanitation and schooling.

An increase in poverty has raised the level of stress within families and led to a rise in the number of abandoned children and to more child abuse. A 1994 survey by the National Institute for Minors determined that 206,000 children were involved in illicit activities, principally begging but also petty theft, prostitution, and drug trafficking. Some 40,000 children were exploited sexually, according to a 1994 study.

The authorities in Caracas and several other jurisdictions tried to cope with the phenomenon of street children by continuing to impose curfews for unsupervised minors. Children's rights advocates claim that curfews permit the police to act arbitrarily in detaining persons who have committed no crime. Because reform institutions are filled to capacity, hundreds of children accused of infractions are confined in juvenile detention centers (see Section 1.c.).

In October 1997, Amnesty International reported past incidents in which minors were subjects of extrajudicial killings and abuse, as well as deficiencies in law and practice with regard to the detention of children. For example, security forces and law enforcement authorities often detain minors together with adults (see Section 1.c.). In April Congress passed the Organic Procedural Law on Adolescents and Children (a criminal code); however, observers expressed concern over the slow implementation of the law's provisions.

Reports of child abuse are rare due to a fear of entanglement with the authorities and ingrained attitudes regarding family privacy. The overburdened judicial system, although very slow, generally ensures that in most situations children are removed from abusive households once a case has been reported. However, public facilities for such children are inadequate and have poorly trained staff.

Children's rights advocates criticized the Government's efforts to reunite children and parents who had been separated in the flooding in Vargas state. At year's end, some 12 months after the natural disaster, some children still were separated from their families. CECODAP estimates that there are 120 children in refugee centers who have not yet been returned to their families. The national Ombudsman's office is investigating whether some of these children may have been trafficked. There were also reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids (see Section 6.f.).

People with Disabilities

The physically disabled have minimal access to public transportation, and ramps are practically nonexistent, even in government buildings. According to local advocates, the disabled are discriminated against in many sectors, including education, health care, and employment.

A 1993 comprehensive law to protect the rights of the disabled requires that all newly constructed or renovated public parks and buildings provide access for the disabled. The law also forbids discrimination in employment practices and in the provision of public services. However, the Government has not made a significant effort to implement the law, to inform the public of it, or to try to change societal prejudice against the disabled.

Indigenous People

Although the law prohibits discrimination based on ethnic origin, members of the country's indigenous population frequently suffer from inattention to and violation of their human rights. Many indigenous people are isolated from modern civilization and lack access to basic health and educational facilities. High rates of cholera, hepatitis B, malaria, and other diseases plague their communities. There are approximately 316,000 indigenous people in 27 ethnic groups.

The Constitution provides for special laws governing "the protection of indigenous communities and their progressive incorporation into the life of the nation." Nonetheless, local political authorities seldom take account of the interests of indigenous people when making decisions affecting their lands, cultures, traditions, and allocation of natural resources. As farmers and miners intrude on their habitats, indigenous communities are threatened by deforestation and water pollution. Few indigenous people hold title to their land, but many do not want to since most indigenous groups reject the concept of individual property and want the Government to recognize lands traditionally inhabited by them as territories belonging to each respective indigenous group.

At year's end, the Supreme Court had not yet ruled on a lawsuit filed by environmental and indigenous organizations challenging a 1997 decree that permitted the expansion of legal mining activities in the Imataca forest reserve. The groups charged that only Congress can change the nature of the reserve, that there was an inadequate public review process prior to the change, and that expanded mining activities would affect adversely the health of the Warao, Arawako, Karina, Akawaio, and Pemon indigenous communities that inhabit the Imataca watershed area. In November 1997, the Supreme Court ordered the Government not to issue any new mining concessions in the Imataca reserve until the court ruled on the constitutionality of the presidential decree. In 1999 President Chavez said that he planned to enact a new law to regulate the use of the reserve and that the 1997 decree would be annulled, but at year's end no action had been taken.

The controversy over infrastructure development and the maintenance of traditional indigenous lifestyles is most evident in Bolivar state, where the Pemon continued to protest the building of power lines that export electricity to Brazil through Canaima national park. On July 20, a total of 55 of the 58 Pemon communities affected by the power lines signed an agreement under which the Government pledged, among other commitments, to establish a commission for the demarcation of native lands and to create a development fund for indigenous people. However, many Pemon remain highly skeptical of the Government's willingness and ability to comply with the accord's provisions.

The Yanomami, among the most isolated of the indigenous people, have been subject to persistent incursions into their territory by illegal gold miners. The miners have introduced not only new diseases but social ills as well. In December 1996, a number of human rights organizations, acting on behalf of the Yanomami community of Haximu, petitioned the IACHR in connection with the 1993 massacre of 16 members of the community by Brazilian miners. The petition alleged that the Government failed in its obligation to protect the Yanomami and to seek appropriate punishment of the killers, who were released by the Brazilian authorities after 3 months' detention. In May 1998, the Government agreed to work with the NGO's under IACHR mediation to resolve the case. In late 1999, an out-of-court settlement was reached under which the Government pledged, among other commitments, to provide better security and to carry out health care projects in the area.

During the year, 300 Yanomami, with the assistance of the Amazonas state ombudsman, filed suit over obstacles they faced in registering to vote (see Section 3).

Since 1998 hundreds of members of the Warao indigenous group have migrated from their traditional homelands in the swampy Orinoco delta region to the capital of Caracas where they live in the streets, selling their traditional crafts and begging. The Warao say that flooding and petroleum exploration have eroded their traditional means of survival, which are fishing and horticulture. In addition, many Warao no longer want to or no longer possess the knowledge required to survive in their traditional manner. However, the Caracas city government and the Metropolitan Police have maintained a policy of forcing the Warao to return to the delta by rounding them up and loading them onto buses. In 1998 they returned, on average, groups of 100 Warao, at least 15 times. Many of the Warao return to Caracas, citing lack of jobs and money in the delta and their ability to receive approximately \$225 (130,000 bolivars) per week in handouts in Caracas.

Section 6 Worker Rights

a. The Right of Association

Both the Constitution and labor law recognize and encourage the right of workers to organize; however, concerns over labor rights increased during the year. According to the new Constitution, all workers, without prejudice or previous authorization, have the right to form freely unions that they believe can help them defend their rights and interests, as well as to join—or decide not to join—these organizations in accordance with the

law. The Constitution provides that these organizations are not subject to intervention, suspension, or administrative dissolution, and workers are protected against any discrimination or measure contrary to this right. Additionally, labor organizers and leaders may not be removed from their positions during the period of time and under the conditions that they exercise their leadership functions. However, Articles 23 and 95 of the 1999 Constitution, which provide for freedom of association, are contradicted by Article 293, which gives the National Electoral Council the authority to administer the internal elections of labor confederations, in violation of the Government's commitments to Conventions 87 and 98 of the International Labor Organization (ILO) charter. On December 3, a referendum was held that was followed by the resignation of the leaders of the country's major labor union confederation.

At year's end, labor law pursuant to the 1999 Constitution had not yet been drafted. The existing comprehensive 1990 Labor Code extends the right to form and join unions of their choosing to all private and public sector employees (except members of the armed forces). The code mandates registration of unions with the Ministry of Labor, but it reduces the Ministry's discretion by specifying that registration may not be denied if the proper documents (a record of the founding meeting, the statutes, and membership list) are submitted. Only a judge may dissolve a union, and then only for reasons listed in the law, such as the dissolution of a firm by agreement of two-thirds of the membership.

The ILO repeatedly has expressed concerns that the Organic Labor Act violates freedom of association by requiring a high number of workers (100 workers) to form self-employed workers' trade unions and a high number of employers to form employer trade unions (10 workers). The ILO also notes that the long and detailed list of duties entrusted to workers' and employers' organizations and the requirement that foreign workers must be in residence for more than 10 years in order to hold trade union offices also are in violation of the Convention on Freedom of Association.

In early March, the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.b.) and suspended internal labor leadership elections for the same period of time. On July 14, the CNE prohibited labor leadership elections until February 2001. In late March, the CLN passed a decree that violated the Campesino Federation's right to associate freely by intervening in the federation's right to hold internal elections, embargoing federation property, and placing it in the custody of the national Ombudsman.

One major union confederation, the Confederation of Venezuelan Workers (CTV), three small union confederations, and a number of independent unions operate freely. About 20 percent of the national labor force is unionized. The CTV represents most of the unionized workers and has a membership of 800,000 workers. The CTV is especially strong in the public sector. The CTV's top leadership includes members of several political parties, but the majority are affiliated with one of the traditional parties, Democratic Action (AD) or the Christian Democrats (COPEI). The CTV and the AD traditionally have influenced each other.

On December 3, the Government held a public "workers referendum" to consider the "overhaul of union leadership" and the "suspension" of union officials. International labor authorities, including the International Confederation of Free Trade Unions and the ILO, declared the referendum to be a violation of freedom of association and an unacceptable government intervention in organized labor affairs. The fact that the referendum included the participation of all registered voters on an issue affecting independent labor organizations was viewed as particularly offensive to international labor standards and the right of freedom of association. A CNE spokesman defended the participation of all registered voters, observing that all citizens "are workers or related to workers." The Public Prosecutor and Ombudsman both declared the measure unconstitutional as violations of freedom of association and the Government's international agreements, as provided for in the 1999 Constitution, and recommended that the Supreme Court do the same; however, the Court ruled in favor of moving forward with the referendum.

In the referendum voters were asked to approve an "overhaul of union leadership in 180 days, under a special law drafted by the electoral council, in accordance with the principles of term limits and universal, direct and confidential suffrage" in accordance with the Constitution and to suspend "the function of union officials" during that time. Approximately 65 percent of those citizens who voted approved the question. The CNE later announced that voter turnout was 23 percent.

On December 6, the CTV leadership voluntarily resigned and was replaced by a transitional committee consisting of a broad spectrum of labor and civil society representatives that included individuals connected with the CTV as well as other labor organizations not traditionally aligned with the CTV. Following this change in leadership, the parties involved began to prepare for discussions on reforming the country's labor union structure.

On September 3, President Chavez announced the creation of the "Bolivarian" Worker's Force (FTB) as a new

labor federation allied with the ruling MVR to displace, or at least compete with, the CTV. President Chavez said that the FTB was preparing an "all out war" to "demolish" the CTV. Seats on the new "transitional committee" heading the CTV had been set aside for members of the FTB.

The new Constitution and the comprehensive 1990 Labor Code recognize the right of all public and private sector workers to strike in accordance with conditions established by the law, which still was being drafted at year's end. However, public servants may strike only if the strike does not cause "irremediable damage to the population or to institutions." Replacement workers are not permitted during legal strikes. The Labor Code allows the President to order public or private sector strikers back to work and to submit their dispute to arbitration if the strike "puts in immediate danger the lives or security of all or part of the population." During the year, most strikes were brief and occurred among government employees such as petroleum workers, health workers in public hospitals and clinics, firefighters, teachers, and transportation workers. In mid-October, the main petroleum workers' union, FEDEPETROL, held a successful 4-day strike against the state oil company PDVSA and persuaded the Government to concede to strikers' demands for a 30-month contract. The strike was settled through tripartite negotiations, which included the active participation of then-Vice President Isaias Rodriguez, who noted the "historic role" of labor leaders in gaining benefits for workers.

There are no restrictions on affiliation with international labor organizations, and many union organizations are active internationally; however, a November Supreme Court ruling regarding the legal abilities of NGO's that receive funding from foreign sources potentially could restrict the international affiliations of union organizers (see Section 2.b.).

b. The Right to Organize and Bargain Collectively

According to the December 1999 Constitution, all public and private sector workers have the right to voluntary collective bargaining and to arrive at collective bargaining agreements, without any additional requirements other than those established by the law. The Constitution provides that the State is to ensure development of collective bargaining and to establish conditions favorable to collective relationships and the solution of labor conflicts. The 1990 Labor Code stipulates that employers must negotiate a collective contract with the union that represents the majority of their workers. The ILO repeatedly has expressed concerns that this provision restricts freedom of association and in March requested that the Government amend it so that "in cases where no union organization represents an absolute majority of workers, minority organizations may jointly negotiate a collective agreement on behalf of their members." The code contains a provision stating that wages may be raised by administrative decree, provided that the legislative body approves the decree.

The law also prohibits employers from interfering with the formation of unions or with their activities or from stipulating as a condition of employment that new workers must abstain from union activity or must join a specified union. The 1999 Constitution prohibits measures that "alter the sanctity and progressiveness" of labor rights and worker benefits, declares labor rights to be irrevocable, and provides that ambiguities regarding the application or interpretation of norms are to be applied in the manner most favorable to the worker.

Ministry of Labor inspectors hear complaints regarding violations of these regulations and traditionally have been able to impose a maximum fine of twice the monthly minimum wage for a first infraction. Under the 1999 Constitution, union officials have special protection from dismissal. Under the 1990 Labor Code, if a judge determines that any worker was fired for union activity, the worker is entitled to back pay plus either reinstatement or payment of a substantial sum of money, which varies according to his years of seniority.

The right to bargain collectively was violated in early March, when the National Legislative Committee passed a decree that suspended collective bargaining in the petroleum and public sector for 180 days (see Section 6.a.). On July 14, the CNE extended the decree until October 15.

Labor law and practice are the same in the sole export-processing zone, located in Punto Fijo, as in the rest of the country.

c. Prohibition of Forced or Compulsory Labor

The 1990 Labor Code states that no one may "obligate others to work against their will," and such practices generally are not known to occur. Apart from the general prohibition of compulsory labor, the law does not prohibit specifically forced and bonded labor by children, and such practices generally are not known to occur; however, there were reports of trafficking in children (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The 1990 Labor Code and the Tutelary Law for Minors contain provisions to protect children from exploitation in the workplace. The Ministry of Labor and the National Institute for Minors enforce child labor policies effectively in the formal sector of the economy but less so in the informal sector, in which an estimated 1.2 million children work. According to UNICEF, approximately 47 percent of children are in the labor market, and work in agriculture, as artisans, in offices, and in the services sector.

Primary school education is compulsory, free, and universal (see Section 5). However, 64 percent of children leave school before the ninth grade. In a 1996 survey of working children conducted by the National Institute for Minors, 45 percent of those polled stated that they were not in school. The actual figure is probably much higher considering that those who stated that they attended school also reported that they worked on average 7 1/2 hours per day, 4 to 7 days a week.

The 1990 Labor Code allows children between the ages of 12 and 14 to work only if the National Institute for Minors or the Labor Ministry grants special permission. It states that children between the ages of 14 and 16 may not work without the permission of their legal guardians. Minors may not work in mines or smelters, in occupations that risk life or health, that could damage intellectual or moral development, or in public spectacles. The 1999 Constitution prohibits adolescents from working at jobs that will affect their development, protecting them from economic and social exploitation.

Those under 16 years of age must by law work no more than 6 hours a day or 30 hours a week. Minors under the age of 18 may work only between the hours of 6 a.m. and 7 p.m. The estimated 1.2 million children who work in the informal sector, mostly as street vendors, generally work more hours than the total permitted under the law. In the National Institute for Minors survey of working children, half the children worked both morning and afternoon, and 64.5 percent worked 6 or 7 days a week. The Government's Central Office of Statistics and Information reports that 12 percent of the country's children between the ages of 10 and 17 are working, have worked at some time, or are seeking work. Of that number, approximately 70 percent work in the informal sector of the economy. Less than 300,000 of children who work in the informal sector have permits.

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e. Acceptable Conditions of Work

The 1999 Constitution provides workers with the right to a salary that is sufficient to allow them to live with dignity, and provides them and their families with the basic material, social, and intellectual necessities. The Constitution obliges the State to provide public and private sector workers with an annually adjusted minimum wage, using the cost of the basic basket of necessities as a reference point. The monthly minimum wage is \$206 (142,000 bolivars) in the private sector for urban workers and \$170 (118,000 bolivars) for rural workers, effective May 1.

Total take-home pay in the private sector, the product of a presidential decree, was at least equal to that received by public sector minimum wage workers. Fringe benefits are added to these minimum figures; they vary with the worker's individual circumstances but in general increase wages by about one-third. However, even with these benefits, the minimum wage is not sufficient to provide a decent standard of living for a worker and family. Unions point out that a worker's income is often less than the cost of a family's basic monthly food basket, estimated by the Center for Documentation and Analysis for Workers in August at \$308 (212,205 bolivars). The basic basket, which includes medical care, transportation, clothing, and housing, in addition to food, stood at \$905 (624,413 bolivars) for August.

Under the 1990 Labor Code, minimum wage rates are set by administrative decree, which the legislature may suspend or ratify but may not change. The law excludes only domestic workers and concierges from coverage under the minimum wage decrees. The Ministry of Labor has enforced minimum wage rates effectively in the formal sector of the economy, but about one-half of the population works in the informal sector where labor laws and protections generally are not enforced.

The 1999 Constitution also stipulates that the workday may not exceed 8 hours daily or 44 hours weekly and that night work may not exceed 7 hours daily or 35 hours weekly. Managers are prohibited from obligating employees from working extraordinary hours, and workers also have the right to weekly time away from work and annual remunerated vacations. Some unions, such as the petroleum workers, have negotiated a 40-hour week. Overtime may not exceed 2 hours daily, 10 hours weekly, or 100 hours annually, and may not be paid at a rate less than time-and-one-half. The Ministry of Labor effectively enforces these standards in the formal sector.

The 1999 Constitution provides for secure, hygienic, and adequate working conditions; however, the authorities have not yet promulgated regulations to implement the 1986 Health and Safety Law, which is not enforced. The delay is due largely to concern that the law provides penal sanctions against management when violations of health and safety occur and that there is ambiguity in the law over what constitutes a violation. The 1990 Labor Code states that employers are obligated to pay specified amounts (up to a maximum of 25 times the minimum monthly salary) to workers for accidents or occupational illnesses, regardless of who is responsible for the injury.

The code also requires that workplaces maintain "sufficient protection for health and life against sickness and accidents," and it imposes fines ranging from one-quarter to twice the minimum monthly salary for first infractions. However, in practice Ministry of Labor inspectors seldom close down unsafe job sites. Under the law, workers can remove themselves from dangerous workplace situations without jeopardy to continued employment.

f. Trafficking in Persons

The new Constitution prohibits trafficking in persons, and this provision was codified in legislation during the year. There were reports that women were trafficked to Spain for purposes of prostitution. The national Ombudsman's office is investigating whether some of the children separated from their parents in the flooding in Vargas state may have been trafficked (see Section 5). There also were reports of trafficking in children from other South American countries to work in Caracas as street vendors and housemaids. The ease with which fraudulent government documents of nearly all types are obtained contributed to the trafficking problem. The Government's efforts to prevent trafficking are the responsibility of the Prosecutor General's family protection directorate (which also handles prosecutions) and the National Institutes for Women and Minors. NGO's such as CECODAP also are involved in activities to combat trafficking.

[End.]